



Virginia
Regulatory
Town Hall

Exempt Action Final Regulation Agency Background Document

Agency Name:	Dept. of Medical Assistance Services (12 VAC 30)
VAC Chapter Number:	Chapter 40
Regulation Title:	Eligibility Conditions and Requirements
Action Title:	2002 Technical Eligibility Amendments
Date:	April 19, 2002; Effective 7/1/2002

Where an agency or regulation is exempt in part or in whole from the requirements of the Administrative Process Act (§ 9-6.14:1 *et seq.* of the *Code of Virginia*) (APA), the agency may provide information pertaining to the action to be included on the Regulatory Town Hall. The agency must still comply the requirements of the Virginia Register Act (§ 9-6.18 *et seq.* of the *Code of Virginia*) and file with the Registrar and publish their regulations in a style and format conforming with the *Virginia Register Form, Style and Procedure Manual*. The agency must also comply with Executive Order Fifty-Eight (99) which requires an assessment of the regulation's impact on the institution of the family and family stability.

This agency background document may be used for actions exempt pursuant to § 9-6.14:4.1(C) at the final stage. Note that agency actions exempt pursuant to § 9-6.14:4.1(C) of the APA do not require filing with the Registrar at the proposed stage.

In addition, agency actions exempt pursuant to § 9-6.14:4.1(B) of the APA are not subject to the requirements of the Virginia Register Act (§ 9-6.18 *et seq.* of the *Code of Virginia*) and therefore are not subject to publication. Please refer to the *Virginia Register Form, Style and Procedure Manual* for more information.

Summary

Please provide a brief summary of the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation, instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This final exempt regulatory action affects eligibility requirements: the Medically Needy Income Limits; the Standards of Assistance; and the More liberal income and resource disregards for AFDC-related cases both categorically and medically needy.

This regulation specifies that the Medically Needy Income Limits will be adjusted annually to reflect increases in the CPI and thus avoid the necessity of filing a regulatory package each year to reflect the actual change. The actual Medically Needy Income Limits for a current year can be obtained by contacting any local Department of Social Services in the Commonwealth.

This regulation provides for an automatic increase in the AFDC Income Limits in the State Plan to reflect the annual increase in the Consumer Price Index. The 2001 increase in the CPI was 2.6% that will be reflected in the July 2002 income limits. Because Federal Financial Participation requires that the Medically Needy Income Limits cannot exceed 133 1/3 percent of the AFDC Income Limits, it is necessary to increase the Standards of Assistance at the same time that the Medically Needy Income Limits are increased.

Also, this regulation expands the purposes for which an applicant or recipient can set aside funds and the types of accounts in which the funds can be placed. For example, under this regulation, individuals will be allowed to establish an account to save money to purchase a vehicle for transportation to work, which was not previously an allowable item.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency .including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

I hereby approve the foregoing Regulatory Review Summary with the attached amended State Plan pages and adopt the action stated therein. Because this final regulation is exempt from the public notice and comment requirements of the Administrative Process Act (Code 9-6.14:4.1 C), the Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

4/19/2002

Date

/s/ Patrick W. Finnerty

Patrick W. Finnerty, Director

Dept. of Medical Assistance Services

Additional Information

Please indicate that the text of the proposed regulation, the reporting forms the agency intends to incorporate or use in administering the proposed regulation, a copy of any documents to be incorporated by reference are attached.

Please state that the Office of the Attorney General (OAG) has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law. Note that the OAG's certification is not required for Marine Resources Commission regulations.

If the exemption claimed falls under § 9-6.14:4.1(C) (4)(c) of the APA please include the federal law or regulations being relied upon for the final agency action.

Medically Needy Income Limits

This regulation provides that the Medically Needy Income limits are to be adjusted annually by the percentage increase in the Consumer Price Index (CPI) to the extent the limits do not exceed the amount allowed by federal law for continued federal financial participation. The 2000 Appropriation Act (Chapter 1073 item 319 W) directed that the Medically Needy Income Limits were to be increased annually to reflect increases in the CPI beginning July 1, 2001. In July 2001, the Medically Needy Income Limits were increased to reflect the 3.5% increase in the CPI for 2000. The 2001 increase to be reflected in July 2002 is 2.6%.

The intent of this regulation is to specify that the Medically Needy Income Limits will be adjusted annually to reflect increases in the CPI and thus avoid the necessity of filing a regulatory package each year to reflect the actual change. The actual Medically Needy Income Limits for a current year can be obtained by contacting any local Department of Social Services in the Commonwealth.

Medically Needy Income Limits have been tied to the payment levels in the Aid to Families with Dependent Children Program (AFDC). The Medically Needy Income Limits are divided into three groups based upon the AFDC income groupings. Section 1903(f) of the Social Security Act limits the Medically Needy Income Limits to no more than 133 1/3 percent of the AFDC payment levels and permits the AFDC limits to be increased by the CPI .

Standards of Assistance

This regulation provides for an automatic increase in the AFDC Income Limits in the State Plan to reflect the annual increase in the Consumer Price Index. The 2001 increase in the CPI was 2.6% and will be reflected in the July 2002 income limits. By federal law, the Medically Needy Income Limits may not exceed 133 1/3 percent of the income limits set for the AFDC program. Therefore, to increase the Medically Needy Income Limits and ensure continued Federal Financial Participation, a corresponding increase must be made in the Standards of Assistance, listed in the State Plan, for families who are eligible for Medicaid because they meet the requirements of the AFDC plan (see §§ 1902(a)(10)(C), 1902(a)(17) and 1931 of the *Social Security Act* and 42 CFR 435.811 and 42 CFR 435.1007).

To avoid filing a regulatory package each year to reflect the allowable CPI increase in the Standards of Assistance, this regulation automatically adjusts the Standards of Assistance annually. The actual Standards of Assistance for a current year can be obtained by contacting any local Department of Social Services in the Commonwealth.

More liberal income and resource disregards for AFDC-related cases both categorically and medically needy

The 2002 Session of the General Assembly enacted House Bill 289 (Chapter 360) to allow low-income families with children who apply for or receive Medicaid to have or to establish savings or investment accounts not to exceed \$5,000 to be used for purposes related to self-sufficiency. Any funds, including interest earned or appreciation in value, are to be exempted when determining eligibility so long as the funds remain in the account or are withdrawn for a purpose related to self-sufficiency.

Currently, applicants and recipients are allowed to establish a \$5,000 savings account and have the funds and interest earned thereon disregarded if the account is designated for the purpose of paying for tuition, books and incidental expenses at any elementary, secondary or vocational school or any college or university; or, for making a down payment on a primary residence; or, for business incubation.

This regulation expands the purposes for which an applicant or recipient can set aside funds and the types of accounts in which the funds can be placed. For example, under this regulation, individuals will be allowed to establish an account to save money to purchase a vehicle for transportation to work, which was not previously an allowable item.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This final exempt regulatory action will not have any direct impact on the institution of the family and the stability of the family. It will not erode the authority and rights of parents in the education, nurturing, and supervision of their children; it will encourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, or one's children and/or elderly parents; it will not erode the marital commitment; it will not decrease disposable family income.